IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

Crl.MC.No. 3015 of 2007()

CC.1048/2001 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

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PETITIONER: ACCUSED NO.9

ADOLF MATHEW, S/O. MATHEW,
PANDIAMAKKAL HOUSE, KADANADU VILLAGE,
MEENACHIL TALUK, KOTTAYAM DISTRICT,
NOW RESIDING AT 128-J - EXTENSION, LAXMI NAGAR,
DELHI-92.

BY ADV. SRI.P.V.GEORGE(PUTHIYIDAM)

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
(ASST. COMMISSIONER OF POLICE, CENTRAL POLICE
STATION, ERNAKULAM), REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI.M.S. BREEZ.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 3015 of 2007

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Dated this the 28th day of September, 2007

O R D E R

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Section 452 I.P.C. and Section 3 of the P.D.P.P. Act. Proceedings are pending before the learned Chief Judicial Magistrate, Ernakulam. I am not adverting to the previous history of the case, as at the moment allegations are raised against the petitioner, it is submitted by the counsel for the petitioner, only under the sections of I.P.C. and under the P.D.P.P. Act The petitioner was not available locally. He is a lawyer practicing in the Supreme Court. Consequently he did not appear before the learned Magistrate. Coercive processes have been issued against the petitioner. The petitioner finds a warrant of arrest issued by the learned Magistrate and steps under Sec. 82/83 Cr.P.C. chasing him.

2. According to the petitioner he is absolutely innocent. His failure/omission to appear earlier was not wilful, but was due to reasons beyond his control. He is willing to surrender before the learned Magistrate and seek bail. He shall co-operate with the Court

for the expeditious disposal of the case. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in

charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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